

## LABOUR DEPARTMENT

The 9th April, 1979.

No. 11(112) 3 Lab-79/3926.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Sirsa Co-operative Marketing Society Ltd. Sirsa:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK.

Reference No. 69 of 1976  
between

SHRI AMAR SINGH DHARIWAL, workman village Lakhawas C/o Shri DHARAM CHAND, Gram Sewak, Jogiwala Halka, P.O. Jogiwala, Teh. Bhadra, District Sri Ganganagar (Rajasthan) and the management of M/s. SIRSA CO-OPERATIVE MARKETING SOCIETIES, LTD., SIRSA.

## AWARD

By order No. ID/HSR/175-A-76/29691, dated 11th August, 1976, the Governor of Haryana referred the following dispute between the management of M/s Sirsa Co-operative Marketing Society, Ltd., Sirsa and its workman Shri Amar Singh Dhariwal, to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act:—

Whether the termination of services of Shri Amar Singh Dhariwal was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged.—vide claims statement filed by him that he was appointed on 1st November, 1972, as a permanent clerk by the management concerned and that his services were terminated by them on 28th February, 1974, without service of any notice or charge-sheet on him and that he was entitled to reinstatement with continuity of service and full back wages.

The management while admitting that Shri Amar Singh was appointed as clerk-cum-salesman on 1st November, 1972 in their Ding Branch and that he was promoted as Accountant 'C' grade on permanent basis w.e.f. 9th January, 1973, pleaded that he lost his lien on the job of a clerk-cum-salesman with his promotion as Accountant and that on the recommendation of the Director made by him on the assessment of the working of the Ding branch, in December, 1973 and January, 1974, the services of the workman concerned were retrenched on 28th February, 1974, and the branch was finally closed on 30th May, 1974 even though the services of Shri Sewa Ram Midha another Accountant of the branch were retained. They thus set up a plea that the workman concerned was entitled only to the benefits of the closure of the branch admissible to him under section 25 (fff) of the Industrial Disputes Act (hereinafter referred to as the Act.)

The workman concerned while conceding that he was appointed as clerk-cum-Salesman on 1st November, 1972 and was subsequently promoted as a permanent Accountant on 9th January, 1973 by the management concerned, denied other pleas,—vide rejoinder filed by him that he was employed only for working in the Ding branch. He, further stated that the plea of the management regarding closure of the Ding Branch was wholly false and concocted and was even against the pleas put forth by them before the Conciliation Officer Bhiwani during Conciliation proceedings that he had been removed from service on account of his inefficiency and dishonesty. He finally averred that he was senior to Shri Deva Ram Midha admittedly retained by the management concerned in service after 28th February, 1974 the date of termination of his services and 30th May, 1974 the date of alleged closure of the Ding Branch which was not made in accordance with the provisions of the Act and was as such illegal.

The only issue framed by me on pleas of the parties.—vide order dated 11th January, 1977 as such per terms of the reference noted below:—

Whether the termination of services of Shri Amar Singh

Dhariwal was justified and in order ? If not, to what relief is he entitled ?

I was heard learned authorised representative of the parties and gone through the written arguments submitted on behalf of the management and duly attached with the records. I decide the issues as under:

Shri Surinder Kaushal authorised representative of the management strenuously contended that in view of the plea taken by the later,—vide their written statement that the services of the workman concerned had to be dispensed with as a result of the closure of the Ding Branch a specific issue putting them to proof of that plea should have been framed and the reference could not be rightly answered and disposed of till such a specific issue was framed with an opportunity to the parties to adduce evidence. The management in fact made an application dated 20th April, 1978/2nd June, 1978, praying for framing of such an issue. This application is stoutly opposed by the workman concerned and I have fully considered the matter with reference to the records.

I. find on perusal of the written statement of the management concerned that whereas they pleaded,—vide paragraphs 5 and 7 thereof that the services of the workman were terminated on 28th February, 1974, on their expecting the closure of Ding branch imminent in the near future on account of the lessening of the work of that branch since December, 1973, they gave out,—vide paragraph 6 of the written statement that the branch was finally closed on 30th May, 1974, and the services of all employees of that branch except that of Shri Sewa Ram Midha another Accountant were dispensed with. It would thus appear that the management took half hearted inconsistent pleas firstly of termination of services of the workman by way of retrenchment on 28th February, 1974, and secondly of the closure of Ding Branch on 30th May, 1974. No plea was admittedly taken by them that the working of the society or its management as a whole was ever closed. The only issue that arose from the pleas of the parties under the circumstances was that he was not entitled to reinstatement.

per terms of the reference actually framed by me and in absence of a plea that the services of the workman were dispensed with as a result of the closure of the branch on the date of its closure, no issue in this connection could have been legally framed.

Even assuming that an issue putting the management to prove of closure of the Ding Branch arose from the pleas of the parties, it need now not be framed resulting in the opening of the whole case, in view of the parties and particularly the management having actually led evidence in support of the plea of closure of the Ding Branch with full consciousness of that plea being before them at the evidence stage. I am thus convinced from the perusal of the record that the management have actually led evidence on plea of the closure of the Ding Branch and the justification of termination of services of the workman on that ground on they cannot be said to have been prejudiced as a result of the failure of the court to frame a specific issue putting them to prove the closure. I, therefore, reject the application of the management and the arguments of their authorised representative put forth before me in this connection as untenable.

This now bring me to the determination of the important question as to whether the termination of services of the workman concerned by way of retrenchment or even by way of the closure of the Ding Branch was justified and in order. The plea put forth by the management in this connection in the manner as referred to above in the written statement is found specifically contradicted by the plea taken by them at the initial stage during the conciliation proceedings before the Conciliation Officer as is found disclosed from the copy of the report Ex. W-3 initially that the workman concerned was much senior to other employees and the matter of his reinstatement on that ground would be brought to the notice of the Director of the Society in the meeting and subsequently on 27th May, 1976, that his services had to be terminated on the grounds of the unsatisfactory nature of his work and his dishonesty and

It would thus appear that the management had been blowing hot and cold in the same breath at different stages of the case in the manner as it suited them without caring to stick on the truth. I, am, therefore, convinced on this ground alone that the plea of management relating to the termination of services of the workman by way of retrenchment on 28th February, 1974, in expectancy of the closure of their Ding Branch on 30th May, 1974, is baseless, false and unfounded.

Taking up the question of retrenchment of the workman on 28th February, 1974 or the termination of his services as a result of the closure of their Ding Branch on 30th May, 1974, the same remain not only unestablished but are otherwise found to be illegal and unjustified from the following facts disclosed from the evidence led by the management:—

(a) There is no evidence on record that Shri Sewa Ram Midha another Accountant working in the Ding Branch, admittedly retained in service in preference to Shri Amar Singh workman concerned was senior to the later and the mere circumstance that the former was sent as an Accountant to the management concerned by Hafed their governing body did not render him senior to the later. It is significant to note that none of the witnesses Shri Satpal, Assistant Manager MW-1 and Shri Balwant Singh, Director, management MW-2 examined by the management said a word about the seniority of Shri Sewa Ram Midha over Shri Amar Singh and no seniority list of the employees of the management concerned showing their date of recruiting, etc., was brought on record leading to an in franca against them as a result of withholding by them of the best evidence that Shri Sewa Ram Midha was not senior to Shri Amar Singh.

(b) Shri Sewa Ram Midha having been admittedly retained in the Ding Branch even subsequent to 30th May, 1974, the alleged date of its closure well render-

ed the story of the closure of the branch false and fabricated particularly when the last date of his work in that branch has not been brought on record. It cannot thus be said that Ding Branch was finally closed even on 30th May, 1974, and the termination of services of the workman on that ground is justified.

- (c) There is no evidence on record that any notice of retrenchment of the service of the workman concerned in a prescribed manner was served on the appropriate Government or such authority as specified by the appropriate Government as required,—vide section 25(f) clause (c) read with section 25(fff) of the Act.
- (d) There is no evidence on record that the working of the Ding Branch of the society was independent of their other branches justifying its closure alone with continuance of working of the other branches. In absence of such an evidence the closure of the Ding Branch is illegal and unjustified,—vide 1977 II LIJ 524 between Rajhans Press and Labour Court, Delhi, an authority of the Delhi High Court.
- (e) The workman was admittedly not paid notice pay of retrenchment compensation at the time of his retrenchment from service on 28th February, 1974, and as such the retrenchment is illegal.

It is thus crvstle clear from the aforesaid admitted facts and the absence of evidence on behalf of the management on record that the termination of services of the workman concerned either by way of retrenchment or as a result of the closure of the Ding Branch is illegal and unjustifyed and he is entitled to reinstatement with continuity of service.

As regards the relief of grant of back wages praved for bv the workman he does not seem to be legally entitled to the same w.e.f 28th February 1974, the date of termination of his services on the ground that he served the management with a notice of demand admittedly on 25th

March, 1976, about two years after the date of actual termination of his services and no reasons were stated by him for this inordinate delay either in the notice of demand dated 25th March, 1976, itself or in the claim statement or in the rejoinder or even at the evidence stage. I do not agree with Shri Tek Chand Gupta his authorised representative that the reasons for delay made in serving the management with the notice of the demand could not be brought on record as a result of want of plea of the management, inasmuch as, the notice of demand having been admittedly served on the management on 25th March, 1976, it was for the workman concerned to specifically allege and explain the reasons of such an inordinate delay and not for the management to plead that he was not entitled to back wages on account of the delay and his failure to explain the same. The workman is, therefore in my opinion entitled to payment of back wages only from 25th March, 1976 when he served the notice of demand on the management and the later cannot be held liable and penalised for his default of delay in serving them with the same at the earliest stage.

The result is that the workman concerned becomes entitled to reinstatement with continuity of service w.e.f. 28th February, 1974, the date of termination of his service and full back wages w.e.f., 25th March, 1976, the date of the notice of demand served by him on the management. I, hold and decide the issue accordingly and answer the reference while returning the award in these terms.

Dated the 13th June, 1978.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 1632, dated 20th June, 1978.  
Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Hariana, Rohtak.  
M. KUTTAPPAN,

Secretary to Government, Haryana,  
Labour & Employment Department.

#### HARYANA STATE LOTTERIES The 18th April, 1979

No. DOL/HR/79/15707

The Governor of Haryana is pleased to make the following Rules for the conduct of 3rd and 4th Draw of Janta State Lotteries namely :—

1. These rules may be called the Rules for the conduct of 3rd and 4th Draw of Haryana Janta Lotteries
2. There shall be one final draw of Haryana Janta Lotteries alongwith two Mini Draws. The 3rd Final Draw and 4th Final Draw will be held on Thursday the 7th June, 1979 and Saturday the 7th July, 1979 respectively with the following Prizes.  
 1st Prize (I) Rs. 35,000/- in cash (Common to all series)  
 2nd Prize (J) Rs. 5,000/- in cash (Common to all series)  
 3rd Prize (10) Rs. 100/- each in cash (One number of last five digits to be drawn from 1,00,000 tickets in each series which will be applicable to the subsequent such blocker in each respective series)  
 4th Prizes (100) Rs. 70/-each in cash (One number of last four digits to be drawn from 10,000 tickets in each series which will be applicable to the subsequent such blocks in each respective series)  
 5th Prize (1000) Rs. 5/- each in cash (One number of last three digits to be drawn from 1,000 tickets in each series which will be applicable to the subsequent such blocks in each respective series)  
 6th Prize (10000) Rs. 7/- each in cash (One number of last two digits to be drawn from 100 tickets in each series which will be applicable to the subsequent such blocks in each respective series)  
 7th Prize (100000) Rs. 1/- each in cash (One number of last one digit to be drawn from 10 tickets in each series which will be applicable to the subsequent such blocks in each respective series)
3. There shall be two Mini Draws during the course of 3rd Draw and 4th Draw of Haryana Janta Lotteries which will be held on Thursday the 17th May, 1979, Sunday the 27th May, 1979, Sunday the 17th June, 1979 and Wednesday the 27th June, 1979 with the following prizes :—

##### 1st Mini Draw

- 1st Prize (I) Rs. 4,000/- in cash (Common to all series)  
 2nd Prize (5) Rs. 500/- each in cash (One prize from each series)  
 3rd Prize (10) Rs. 100/- each in cash (Two prizes from each series)

## 2nd Mini Draw

Ist Prize (1) Rs. 6,000/- in cash (Common to all series)

2nd Prize (5) Rs. 500/- each in cash (One prize from each series)

3rd Prize (10) Rs. 100/- each in cash (Two prizes from each series)

4. All tickets of 3rd Draw and 4th Draw sold prior to the days of Draw shall be included in the Mini Draws and shall again be eligible for prizes during the Final Draw to be held on 7th June, 1979, and 7th July, 1979, respectively.

5. A ticket will be entitled to all the prizes drawn against it both in Mini and Final Draws.

6. The procedure of the Draw shall be the same as prescribed for a Regular Draw. The Mini Draws will be held in presence of judges.

R. L. SUDHIR I.A.S.

Director of Lotteries and Joint  
Secretary to Government Haryana,  
Finance Department, Chandigarh.

## TECHNICAL EDUCATION DEPARTMENT

The 21st April, 1979

No. 38/5/78-PWIV(S).—The Governor of Haryana is pleased to reconstitute the State Board of Technical Education Haryana for a period of two years with effect from the 25th April, 1979 with the following members :—

(1) Minister-in-Charge, Technical Education	..	Chairman
(2) Shri Raj Pal Singh, Advocate, Hissar.	..	Member
(3) Commissioner and Secretary to Government Haryana Technical Education Department	..	Do
(4) Commissioner and Secretary to Government Haryana Finance Department.	..	Do
(5) Secretary to Government Himachal Pradesh Technical Education Department (or his representative)	..	Do
(6) Shri P. C. Bhasin, Chief Engineer (Bridges) Ministry of Shipping and Transport, New Delhi-1 (or his representative)	..	Do
(7) Representative of Government of India, Ministry of Education and Social Welfare, New Delhi	..	Do
(8) Representative of the Northern Regional office of the All India Council for Technical Education, Kanpur.	..	Do
(9) Shri Shyam Sardana, Yamunaagash, Asif Ali Road, New Delhi.	..	Do
(10) Shri Hukam Singh, MLA., Haryana Vidhan Sabha Q. No. 8 Canal Colony Railway Road, Charkhi Dadri.	..	Do
(11) Shri Bhale Ram, Member Haryana Vidhan Sabha Chandigarh (Village and Post office Jaggi, Tehsil Gohana, district Sonepat).	..	Do
(12) Shri K. M. Sibclair Managing Director Technological Consultants Centre, Faridabad.	..	Do

(13) Shri E. N. Mangat Rai, Vice Chairman, YMCA Institute of Engineering Faridabad.	..	Member
(14) Director of Industries, Haryana.	..	Do
(15) Representative of Haryana State Electricity Board Chandigarh.	..	Do
(16) Director of Industrial Training Haryana Chandigarh.	..	Do
(17) Director of Industrial Training Haryana Chandigarh	..	Do
(18) Engineer-in-Chief Irrigation Haryana Chandigarh	..	Do
(19) Engineer-in-Chief Haryana Public Works Department B & R Branch, Chandigarh.	..	Do
(20) Principal Regional Engineering College, Kurukshetra	..	Do
(21) Representative of Kurukshetra University, Kurukshetra.	..	Do
(22) Principal Government Polytechnic, Jhajjar	..	Do
(23) Principal Y. M. C. A. Institute of Engineering Faridabad.	..	Do
(24) Director Technical Education, Haryana	..	Secretary to Ex-officio-Member.

2. The Members will be entitled to draw TA/DA for the journeys performed for attending the meetings of the board in accordance with the instructions contained in the Chief Secretary to Government Haryana U. O. No. 670-Pol(4)-77, dated 4th April, 1972.

3. This issue with the concurrence of the Finance Department conveyed,—*vide* thair U. O. No. 28/1/79-3FDII, dated 9th April, 1979.

V. K. SIBAL,

Commissioner & Secy.

#### FOREST DEPARTMENT

The 23rd April, 1979

No. 1020-Ft. II. 79/13430.—The result of the Departmental Examination of the Forest Officers of Haryana Government held in February, 1979 is notified as under :—

Serial No.	Name of officer	Subject	Pass/fail
1.	Shri R. D. Jakati	Land Revenue	Fail
2.	Shri Rajinder Sarup, HFS II	Ditto	Fail
3.	Shri Kishan Lal, IFS	Forest law	Fail
4.	Shri Raj Pal Singh, HFS II	Procedure and Accounts	Pass
5.	Shri Kirpa Ram Bathla, HFS II	Ditto	Fail
6.	Shri Ramphal Dange, HFS II	Ditto	Pass (with credit)
7.	Shri Kishan Lal, IFS	Hindi	Pass

L. D. KATARIA,  
Commissioner and Secy.